

**BEFORE THE MINNESOTA
EMERGENCY MEDICAL SERVICES REGULATORY BOARD**

In the Matter of
James O. Klava
Certificate No. EMT-P 513532

**STIPULATION
AND ORDER**

WHEREAS, on May 29, 2001, the Complaint Review Committee ("Committee") of the Minnesota Emergency Medical Services Regulatory Board ("Board") initiated the above-captioned matter by serving upon James O. Klava ("Respondent") a document entitled, "Notice of Conference" ("Notice");

WHEREAS, Respondent submitted an undated written response to the Notice;

WHEREAS, on July 11, 2001, Respondent met with the Committee to discuss the allegations set forth in the Notice; and

WHEREAS, based upon the discussion, the parties wish to resolve this matter without the necessity and expense of a contested case hearing by entering into this Stipulation.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between Respondent and the Board as follows:

A. During all times material herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a certificate as an Emergency Medical Technician-Paramedic ("EMT-P").

B. In the event the Board in its discretion does not approve this Stipulation, it shall be deemed withdrawn and of no evidentiary value and shall not be introduced or relied on by either party; except that Respondent agrees that, should the Board not approve this Stipulation

and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any records relating hereto.

C. Respondent expressly waives formal hearing on all facts and legal conclusions referenced herein and any and all procedures before the Board relative to said facts and conclusions to which he might otherwise be entitled by law.

D. Respondent does not contest the facts and conclusions hereinafter following and grants that the Board may, for purposes of its proceedings relating to this Stipulation, consider the following as true:

1. On or about February 10, 2001, while employed as an EMT-P with a Minnesota ambulance service, upon returning from transferring a patient to a hospital, it was reported that Respondent diverted morphine for self-administration. Respondent allegedly administered a total of 6 mg. of morphine to the patient during the transfer. Instead of properly wasting the remaining 4 mg. of morphine in the tubex, Respondent allegedly injected it into his forearm. This alleged diversion was reportedly witnessed by another person. Respondent also allegedly admitted to another staff member that he had personally used the morphine in the back of the ambulance during the particular transfer. Respondent denies the diversion or use of morphine.

2. On March 12, 2001, Respondent was terminated from his position with the ambulance service. The following reasons were set forth in a letter of termination:

- a. Use of improper procedure for wasting morphine on February 10, 2001;
- b. Failure to document the wasting of narcotics on February 10, 2001;

c. Taking sample medications from a clinic without permission or prescriptions; and

d. Credible evidence indicating that Respondent injected the above-referenced morphine into his own arm while on duty on February 10, 2001.

Respondent states that he offered to submit to a drug test at the time of termination and to random testing thereafter, but that the employer refused.

3. During an interview with Board staff on April 6, 2001, Respondent admitted that he did not follow proper procedures in connection with the disposal of the 4 mg. of morphine on February 10, 2001. Respondent states that he did not do so because of an absence of training and that training was not provided until after the incident.

4. Respondent stated during the same interview that he had previously used narcotics, including crack and cocaine. Respondent stated that when he made the decision to try drugs, Respondent took a leave of absence from a previous employment position in St. Louis, Missouri. Later, Respondent participated in an employee assistance program and saw a psychologist. Respondent returned to the job for two weeks, took a leave of absence and never returned to the position in St. Louis. Respondent admits that he also used crack during a January 2001 visit to St. Louis.

5. Respondent further informed Board staff during the April 6, 2001, interview that he misappropriated sample prescription drugs for personal use from one of the clinics visited by the ambulance service where he had been employed. Respondent subsequently identified the medication as vioxx, a non-steroidal anti-inflammatory, which he states he took for a back ailment.

6. Respondent informed the Committee on July 11, 2001, that he is not presently practicing as an emergency medical technician, and that he has allowed his certification as an EMT in the State of Missouri and his national registry certification to lapse.

7. Proof at hearing of one or more of the allegations set forth in the Notice, including proof based on admissions by Respondent, would authorize the Board to revoke, suspend, or take other action against Respondent's Minnesota certificate. *See* Minn. Stat. § 144E.28, subds. 4 and 5.

E. NOW, THEREFORE, IT IS FURTHER STIPULATED AND AGREED that based upon this Stipulation, and without further notice or additional proceedings, the Board may, in its discretion, adopt and implement the following Order:

1. Respondent's certificate to practice as an EMT-P in the State of Minnesota is hereby **SUSPENDED**, effective immediately. During the period of suspension, Respondent shall not practice as an emergency medical technician in Minnesota, nor shall he hold himself out in any manner as being authorized to do so.

2. Not later than seven days from the effective date of this Order, Respondent shall contact the Health Professionals Services Program ("HPSP") for purposes of scheduling chemical dependency and mental health evaluations, including a determination whether Respondent suffers from bipolar affective disorder or any other mood disorder. Within the same seven-day period, Respondent shall provide a true, exact and complete copy of this Stipulation and Order to HPSP. Thereafter, Respondent shall promptly enter into any participation agreement as may be required by HPSP and participate in any indicated monitoring plan.

3. Within 10 days of any Board request therefor, Respondent shall execute and return health records waiver authorizations which permit the Board to obtain all records relating to Respondent's health status and any treatment, including any and all records maintained by HPSP.

4. Within seven days of any change, Respondent shall provide the Board with his current address and telephone information. The information shall be sent to Mary Hedges at the Emergency Medical Services Regulatory Board, University Park Plaza, 2829 University Avenue S.E., Suite 310, Minneapolis, Minnesota 55414-3222.

5. Respondent may petition the Board for the reinstatement of his certification as an EMT-P not earlier than 180 days from the effective date of this Order. Any such petition shall be in writing and shall include a current statement from HPSP indicating whether Respondent is successfully participating in the program.

6. The Board shall grant a petition submitted in accordance with paragraph 5 if it determines that the preponderance of all information received indicates that Respondent:

- a. Has fully complied with the requirements of paragraphs 1-4;
- b. Has successfully completed or is successfully participating in HPSP, as determined by HPSP; and
- c. Is physically, mentally and emotionally capable of providing emergency medical services with reasonable skill and safety to patients.

7. Any reinstatement of Respondent's certification pursuant to paragraphs 5 and 6 shall be conditional. In the discretion of the Board, the conditions may include but need not be limited to Respondent's successful completion of any and all remaining terms and requirements of the HPSP program.

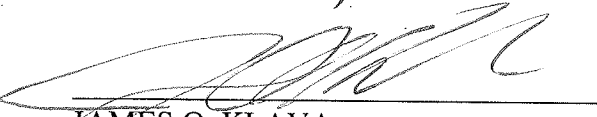
F. Respondent was advised of his option to be represented by legal counsel prior to executing this Stipulation. This Stipulation was read in its entirety by Respondent prior to its execution; he understands all of its provisions; and he affirms that it was entered into freely and voluntarily by him.

G. Respondent hereby knowingly and voluntarily waives any and all claims against the Board, the Minnesota Attorney General, the State of Minnesota and their agents, employees and representatives which may otherwise be available to Respondent under the Americans With Disabilities Act or the Minnesota Human Rights Act relative to the action taken or authorized against Respondent's ^{EMT-Re-certification @ MK} ~~pharmacist-license~~ under this Stipulation.

H. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.

I. Under the Minnesota Government Data Practices Act, this Stipulation and Order is classified as public data. Minn. Stat. § 13.41, subd. 4. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13. They shall not, if they are not already public documents, become public merely because they are referenced herein. Pursuant to federal rule (45 C.F.R. part 60), the Board must report the disciplinary action contained in this stipulation and order to the National Practitioner Data Bank.

Dated: 28 Aug, 2001


JAMES O. KLAVA
Respondent

Dated: 9-6, 2001


For the Committee

ORDER

Upon consideration of this stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the terms of this stipulation are adopted and implemented by the Board this 6th day of Sept., 2001.

MINNESOTA EMERGENCY
MEDICAL SERVICES
REGULATORY BOARD

By: Mary Hedges

AG: 500593, v. 01